

(g) Whether any other contracts are outstanding with the contractor or any affiliates, and, if so, their amount, whether they are assigned pursuant to the Assignment of Claims Act, and the amounts paid or due on them.

(h) A complete summary of all pertinent evidence. If a request for debarment or suspension is based on an indictment or a conviction, provide the evidence upon which the indictment or conviction is based.

(i) An estimate of any damages, sustained by the Government as a result of the contractor's action, including an explanation of the method used in making the estimate.

(j) Recommendation as to

(1) Whether the contractor should be suspended or debarred,

(2) Whether any limitations should be applied to such action,

(3) Whether current contracts should be terminated, and

(4) The period of any debarment.

(k) As an enclosure, a copy of the contract(s) or pertinent excerpts, appropriate exhibits, testimony or statements of witnesses, copies of assignments, and other relevant documentation.

1809.470-3 Addresses and copies of reports.

Reports, including enclosures, shall be submitted to the Office of Procurement (Code HS), with an additional copy to the Headquarters Office of General Counsel (Code G).

Subpart 1809.5—Organizational and Consultant Conflicts of Interest

1809.500 Scope of subpart.

The Associate Administrator for Procurement has authorized the procurement officer to take those actions reserved in FAR subpart 9.5 for the head of the contracting activity. However, see 1809.503 regarding waivers.

1809.503 Waiver.

The Administrator has designated the Associate Administrator for Procurement as the approval authority for waivers under FAR 9.503. The procurement officer shall forward requests for waivers under FAR 9.503 to the Associ-

ate Administrator for Procurement (Code HS) for action.

1809.506 Procedures. (NASA supplements paragraph (b))

(b) The approving official is the procurement officer when the installation has source selection authority and the Associate Administrator for Procurement (Code HS) when NASA Headquarters has that authority.

1809.507 Solicitation provisions and contract clause.

1809.507-2 Contract clause.

The contracting officer may insert a clause substantially the same as the clause at 1852.209-71, Limitation of Future Contracting, in solicitations and contracts.

Subpart 1809.6—Contractor Team Arrangements

1809.670 Contract clause.

The contracting officer shall insert the clause at 1852.209-72, Composition of the Contractor, in all construction invitations for bids and resulting contracts. The clause may be used in other solicitations and contracts to clarify a contractor team arrangement where the prime contractor consists of more than one legal entity, such as a joint venture.

PART 1811—DESCRIBING AGENCY NEEDS

Sec.

1811.002 Policy.

Subpart 1811.1—Selecting and Developing Requirements Documents

1811.104 Items peculiar to one manufacturer.

1811.104-70 Brand name or equal purchase descriptions.

1811.104-71 NASA solicitation provision.

Subpart 1811.4—Delivery or Performance Schedules

1811.403 Supplies or services.

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Subpart 1811.6 Priorities and Allocations

1811.602 General.

1811.603 Procedures.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 61 FR 47078, Sept. 6, 1996, unless otherwise noted.

1811.002 Policy. (NASA supplements paragraph (b))

(b) Implementation of the Metric Conversion Act of 1975, as amended, shall be in accordance with NPD 8010.2B, Use of the Metric System of Measurements in NASA Programs.

Subpart 1811.1—Selecting and Developing Requirements Documents**1811.104 Items peculiar to one manufacturer.****1811.104-70 Brand name or equal purchase descriptions.**

(a) Use of brand-name purchase descriptions is the least preferred method for describing Agency requirements. Purchase descriptions containing references to one or more brand-name products, or components of a product, followed by "or equal" may be used only in accordance with this part 1811.

(b) The term "or equal" should not be added if it is determined under FAR 11.104 that only a particular product meets the essential requirements of the Government.

(c) To the extent feasible, all acceptable brand-name products should be referenced. If "brand-name-or-equal" is used, offerors must be given the opportunity to offer products other than those referenced by brand-name if those products will meet the needs of the Government in essentially the same manner.

(d) "Brand-name-or-equal" purchase descriptions should set forth the salient physical, functional, or other characteristics essential to the needs of the Government. Purchase descriptions should include the following items and any other information necessary to describe the item:

(1) Complete common generic identification of the item.

(2) Model, make, or catalog number for each brand name product, and iden-

tity of the commercial catalog in which it appears.

(3) Name of manufacturer, producer, or distributor of each brand name product referenced (and address if company is not well known).

(e) When it is needed to describe the item required, a commercial catalog description, or pertinent extracts, may be used if the description is identified in the solicitation as being that of the manufacturer, producer, or distributor. The contracting officer shall ensure that a copy of any catalog referenced (except parts catalogs) is available on request for review by offerors at the contracting office.

(f) Offerors offering brand-name products shall not be required to furnish samples; however, solicitations may require the submission of samples from offerors proposing "or equal" products.

(g) Proposals offering products differing from brand-name products referenced in a "brand-name-or-equal" purchase description shall be considered for award if the contracting officer determines that the offered products meet the salient characteristics required by the solicitation. Offers shall not be rejected because of minor differences in design, construction, or features that do not affect the suitability of the products for their intended use.

(h) Except as provided in paragraph (i)(1) of this section, when a "brand-name-or-equal" purchase description is included in a solicitation, the following shall be inserted after each item so described in the solicitation for completion by the offeror:

Offering:

Manufacturer's Name _____

Brand _____

No. _____

(i) If the contracting officer determines that the provision at 1852.211-70 should apply only to certain components, the requirements of paragraph (h) of this section shall apply to them, and a statement substantially as follows shall be included:

The provision entitled Brand Name or Equal applies to the following components:

(List the components to which the provision applies.)

(j) Award documents for brand-name-or-equal acquisitions shall identify the specific products or components the contractor is to furnish. This identification shall include any brand name and make or model number, descriptive material, and any modifications of brand name products specified in the solicitation.

1811.104-71 NASA solicitation provision.

When a "brand-name-or-equal" purchase description is used, the contracting officer shall insert in the solicitation the provision at 1852.211-70, Brand Name or Equal.

Subpart 1811.4—Delivery or Performance Schedules

1811.403 Supplies or services. (NASA supplements paragraph (a))

(a)(3) Contract delivery or performance schedules shall not be expressed in terms of a notice of award. A notice of award as a specific document, separate from the award document itself, is not a contractual document and shall not be used as a reference point for contract performance. See 1814.408 for additional information on notices of award.

1811.404 Contract clauses. (NASA supplements paragraph (a))

(a)(2) FAR 52.211-8, Time of Delivery, Alternates II and III, shall not be used in NASA contracts.

(3) FAR 52.211-9, Desired and Required Time of Delivery, Alternates II and III, shall not be used in NASA contracts.

Subpart 1811.5—Liquidated Damages

1811.502 Policy. (NASA supplements paragraph (d))

(d) The procurement officer shall forward recommendations concerning re-

mission of liquidated damages to the Headquarters Office of Procurement (Code HS).

Subpart 1811.6—Priorities and Allocations

1811.602 General. (NASA supplements paragraph (c))

(c) The Department of Defense is the "Delegate Agency" for NASA. The Headquarters Office of Procurement (Code HS) shall coordinate with DOD, as necessary, to ensure that any DOD requirements are met.

1811.603 Procedures. (NASA supplements paragraphs (e) and (g))

(e)(i) The use of priority ratings on NASA contracts and purchase orders is mandatory except as noted in paragraph (e)(ii) of this section. Priority ratings are assigned on individual contracts and purchase orders by the contracting officer.

(ii) Priority ratings will not be issued for the following:

(A) Items ordered or requisitioned from the GSA Federal Supply Service.

(B) Items for plant improvement, expansion, or construction, unless they will be physically incorporated into a construction project covered by a rated order, or unless NASA has obtained specific priority rating authority.

(C) Production or construction equipment or items to be used for the manufacture of production equipment, unless NASA has obtained specific priority rating authority.

(D) Items falling under the jurisdiction of agencies other than NASA's Delegate Agency. These are: petroleum, gas, solid fuel, electric power, and all other forms of energy; food; civil transportation and the movement of persons and property by all modes; minerals; water; housing facilities; health facilities; radio-isotopes, stable isotopes, source material and special